

CIVIL CASE NO.: 5:18-cv-443-FL

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through undersigned counsel, responds to Plaintiff's Complaint as follows:

- response is required.

- response is required.

- response is required.

- remaining allegations contained in Paragraph 4.

5. Admitted.

- accident referred to in the Complaint. Except as admitted, the remaining allegations in Paragraph 6 pertain to legal conclusions to which no response is required.

7. Admitted.

8. Admitted.

9. Admitted.

10. It is admitted that on the date alleged Defendant Karoffa was operating a 2015 Chevrolet pickup truck which was owned by and registered to Ryan Loew and was being used in the business of Defendant Process Equipment and Controls, LLC. Except as admitted, denied.

11. It is admitted that on the date alleged, Defendant Karoffa was travelling generally East on US 158 near Oxford, North Carolina between SR 1522 and US 15 on August 14, 2016 and was at some time in front of the Plaintiff. Except as admitted, denied.

12. Admitted.

13. Admitted.

14. It is admitted that Defendant-driver drove onto US 158 from the shoulder of US 158. It is further admitted that on US 158 Defendants' vehicle was struck at some point on the left front corner by Plaintiff's motorcycle. Except as admitted, denied.

15. It is admitted that as a result of the collision Plaintiff was injured. Except as admitted, Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 15.

16. Defendants' incorporate by reference their responses to Paragraphs 1 through 15.

17. The allegations in Paragraph 17 pertain to legal conclusions to which no response is required.

18. Denied, including each and every subparagraph of Paragraph 18.

19. Denied.

20. Denied, including each and every subparagraph of Paragraph 20.

21. Denied.

22. Defendants' incorporate by reference their responses to Paragraphs 1 through 21.

23. Admitted.

24. It is admitted that Defendant Karoffa was at all times relevant an employee of Defendant Process Equipment and Controls, LLC and acting in the course and scope of his employment. Except as admitted, denied.

25. Defendant Karoffa denies that he was negligent. Except as denied, the remaining allegations contained in Paragraph 25 pertain to legal conclusions to which no response is required.

26. Denied.

27. Denied, including each and every subparagraph of Paragraph 27.

28. Denied.

ALL ALLEGATIONS, INCLUDING PLAINTIFF'S PRAYER FOR RELIEF, NOT SPECIFICALLY ADMITTED ARE DENIED.

SECOND DEFENSE – CONTRIBUTORY NEGLIGENCE,

As a second answer and defense to Plaintiff's Complaint, and alleged in the alternative, if Defendants are found negligent which such negligence is denied, then Plaintiff was also negligent and such negligence was a direct and proximate cause of any injuries or damages he sustained in that he failed to use reasonable care for his own safety, failed to keep a proper lookout, operated his motorcycle while under the influence of alcohol and failed to act as a reasonable and prudent person would have acted under the same or similar circumstances, and therefore Defendants plead Plaintiff's contributory negligence in complete bar to all claims.

THIRD DEFENSE – INTERVENING/SUPERSEDING NEGLIGENCE

As a further answer and defense to the Plaintiff's Complaint, Defendants allege, on information and belief, that this civil action is barred, in whole or in part, by doctrines of intervening, insulating and/or superseding negligence of a third party upon whom these Defendants had no duty or opportunity for supervision or control in that the third party served or allowed Plaintiff to consume alcohol on the day of the alleged accident which subsequently lead to his intoxication and driving under the influence. Therefore, these Defendants plead the aforementioned negligent acts of others as a complete bar to any recovery in this action.

WHEREFORE, Defendants respectfully pray the Court that:

1. The Plaintiff's Complaint be dismissed with prejudice;
2. That Plaintiff have and recover nothing of or from the Defendants;
3. That the costs of this action be taxed against the Plaintiff;
4. For Trial by jury on all issues; and
5. For such other relief as the Court deems just and proper.

This the 9th day of November, 2018.

/s/ Rodney E. Pettey
RODNEY E. PETTEY
North Carolina State Bar No.: 17715
/s/ Justin M. Osborn
JUSTIN M. OSBORN
North Carolina State Bar No.: 41493
Attorneys for Defendants
YATES, McLAMB & WEYHER, L.L.P.
P.O. Box 2889
Raleigh, NC 27602-2889
Tel: (919) 835-0900; Fax: (919) 835-0910
rpettey@ymwlaw.com
josborn@ymwlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Robert E. Whitley, Esq.
rew@whitleylawfirm.com
Ann C. Ochsner, Esq.
aco@whitleylawfirm.com
Whitley Law Firm
3301 Benson Drive, Suite 120
Raleigh, NC 27609
Attorneys for Plaintiff

This the 9th day of November, 2018.

/s/ Rodney E. Pettey
RODNEY E. PETTEY
North Carolina State Bar No.: 17715
/s/ Justin M. Osborn
JUSTIN M. OSBORN
North Carolina State Bar No.: 41493
Attorneys for Defendants
YATES, McLAMB & WEYHER, L.L.P.
P.O. Box 2889
Raleigh, NC 27602-2889
Tel: (919) 835-0900; Fax: (919) 835-0910
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josborn@ymwlaw.com